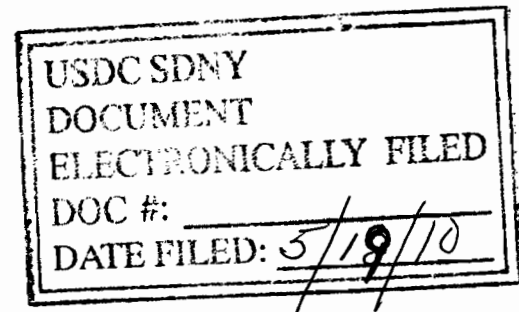


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



MEDISIM LTD

Plaintiff,

v.

BESTMED, LLC

Defendant.

SCHEDULING ORDER

Case No. 10-CV-2463 SAS

Conference Date: May 18, 2010

WHEREAS, the Court issued an Order for a Conference in accordance with Fed. R. Civ. P. 16(b) (the "Order"), and such conference having been rescheduled to May 18, 2010; and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order;

- (1) the date of the conference and the appearances for the parties;

Date of conference: May 18, 2010

Richard Brown and Keith McWha, Day Pitney LLP, for Plaintiff Medisim Ltd.

Talivaldis Cepuritis, Olson & Cepuritis, Ltd., and Nicholas L. Coch, Kramer, Levin, Naftalis & Frankel, LLP, for Defendant BestMed, LLC

- (2) a concise statement of the issues as they then appear;

Medisim has filed a complaint against BestMed, a former distributor of Medisim, alleging patent infringement, copyright infringement, unfair competition and false advertising under the Lanham Act, and other claims relating to digital conductive forehead thermometer technology.

May 28

June 11

June 21

Transferring venue

BestMed denies Medisim's allegations in the Complaint.

(3) a schedule including:

(a) the names of persons to be deposed and a schedule of planned depositions;

At this time, Medisim expects to take deposition testimony of BestMed under Rule 30(b)(6) and from Stan Cohen, Michael Edmonds, and Gwen Lampert and potentially other employees (or former employees) of BestMed. In addition, Medisim may seek discovery from representatives of non-parties, including possibly K-Jump Health Co., which Medisim understands is based in Taiwan. Medisim proposes that deposition discovery generally take place after the substantial completion of document production (see 3b, below).

As presently advised, BestMed expects to take a Rule 30(b)(6), F.R.Civ.P. deposition testimony of Medisim and of deposition testimony of Moshe Yarden, Ilan Vadai, John Wilson, Mark Jago, Yona Sasson, and potentially other current or former employees or agents of Medisim.

(b) a schedule for the production of documents;

The parties propose to substantially complete the production of documents by November 30, 2010. *Sept. 9, 2010*

(c) dates by which (i) each expert's reports will be supplied to the adverse side and (ii) each expert's deposition will be completed;

The parties propose that expert reports and depositions of experts be completed after the Court issues an order resolving claim construction issues ("Markman Order") on the following schedule.

30
~~60~~ Expert reports on issues on which a party bears the burden of proof served no later than *30* days after the Markman Order;

Reply reports served no later than *30* days after service of the initial expert reports;

Expert deposition discovery completed *30* days after service of the reply reports.

(d) time when discovery is to be completed;

The parties propose the fact discovery be completed by April 29, 2011, with the parties presenting claim construction issues to the Court on the following schedule: *JAN. 28, 2011*

May 20, 2011 - parties file joint claim chart with Court

Feb. 18

MAR 1

June 10, 2011- each party files opening claim construction papers

MAR 21

June 30, 2011- each party files responsive claim construction papers

(e) the date by which plaintiff will supply its pre-trial order matters to defendant;

The parties propose a status conference after the issuance of the Markman Order to schedule post-expert discovery proceedings.

(f) The date by which the parties will submit a pre-trial order in a form confirming with the Court's instructions together with trial briefs and either (1) proposed findings of fact and conclusions of law for a non-jury trial, or (2) proposed voir dire questions and proposed jury instructions, for a jury trial; and

The parties propose a status conference after the issuance of a Markman Order to schedule post-expert discovery proceedings.

(g) a space for the date for a final pre-trial conference pursuant to Fed. R. Civ. P. 16(d), to be filled in by the Court at the conference.

~~The parties propose a status conference after the issuance of a Markman Order to schedule post-expert discovery proceedings.~~

April 8 at 10 AM Markman hearing

(4) a statement of any limitations to be placed on discovery, including any protective or confidentiality orders;

The parties expect to submit a proposed protective order to govern certain confidential and proprietary information that is likely to be sought during discovery.

(5) a statement of those discovery issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement;

None at this time.

(6) anticipated fields of expert testimony, if any;

Medisim anticipates expert testimony on issues patent infringement, potential consumer confusion from BestMed's misleading advertising; and quantification of damages to Medisim.

BestMed anticipate expert testimony on issues of patent infringement, patent invalidity, and quantification of damages, if any, to Medisim.

(7) anticipated length of trial and whether to court or jury;

The parties estimate that the length of the jury trial will be 7-10 days.

(8) a statement that the Scheduling Order may be altered or amended only on a showing of good cause not foreseeable at the time of the conference of when justice so requires;

(9) names, addresses, phone numbers and signatures of counsel;

For Plaintiff:

Richard H. Brown
Keith McWha
Day Pitney, LLP
7 Times Square
New York, NY 10036
(212) 297-5800

For Defendant:

Talivaldis Cepuritis
Olson & Cepuritis, Ltd.
20 North Wacker Drive
36th Floor
Chicago, IL 60606
(312) 580-1180

Nicholas L. Coch
Kramer, Levin, Naftalis &
Frankel, LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100

SO ORDERED this 18 day of May, 2010


SHIRA A. SCHEINDLIN, U.S.D.J.